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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,958	07/03/2001	Jack V. Smith	1414.47	9735
21901	7590	06/09/2009	EXAMINER	
SMITH HOPEN, PA			PAGAN, JENINE MARIE	
180 PINE AVENUE NORTH			ART UNIT	PAPER NUMBER
OLDSMAR, FL 34677			3728	
			MAIL DATE	DELIVERY MODE
			06/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/898,958	SMITH, JACK V.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JENINE M. PAGAN	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 March 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 and 12-18 is/are pending in the application.  
 4a) Of the above claim(s) 1-5 and 8-10 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 6,7 and 12-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) 1-5 and 8-10 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 03 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.                                                         | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

1. This Office Action acknowledges the applicant's amendment filed on 2/17/2009.

Claims 1-10 and 12-18 are pending in the application. Claims 1-5 and 8-10 are withdrawn from consideration. Claim 11 is cancelled. Claims 15-18 are new.

The text of those sections of Title 35, U.S. code not included in this action can be found in a prior Office Action.

2. Claims 8-10 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 8-10 are relating to the methods of packaging an article, which were previously withdrawn without traverse with the response filed on 11/04/2002. Accordingly, claims 8-10 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

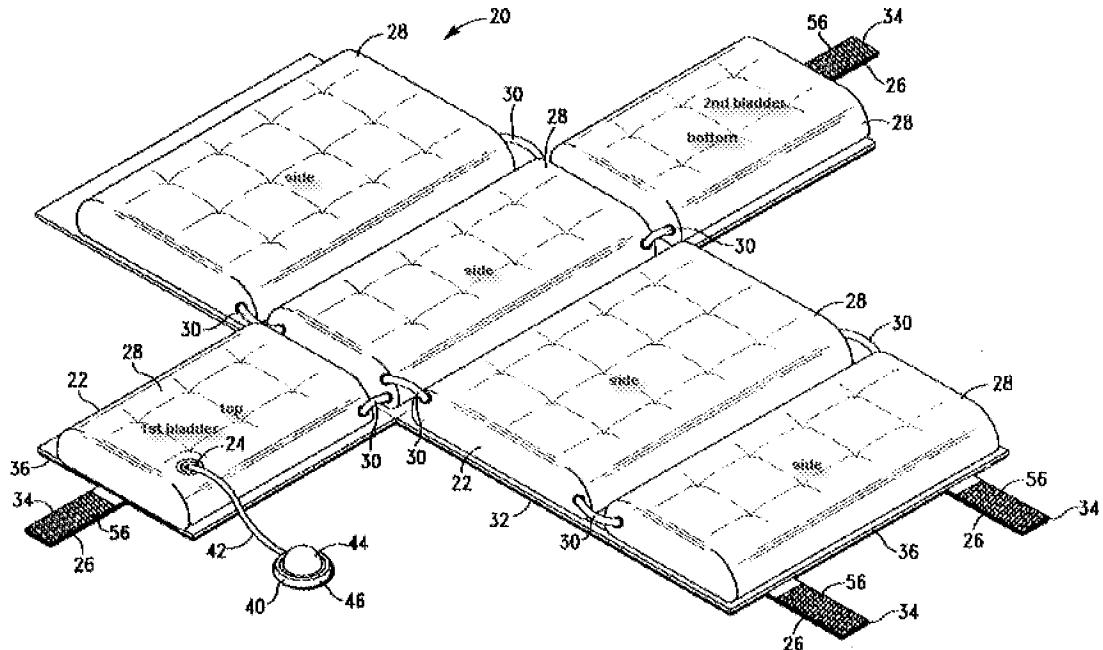
### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6-7 and 12-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 recites the limitation "outlet port" in line 11 of the claim. There is insufficient antecedent basis for this limitation in the claim. Claims 7 and 12-18 are rejected due to their dependency on claim 6

***Claim Rejections - 35 USC § 103***



***FIG. - 1***

**5. Claims 6-7 and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (US 5,624,035) in view of Slepian (US 6,182,826 B1).**

**Claim 6:** Kim discloses an inflatable box (Col 3:29-46, Fig. 1 and 3):

- a box 20 having a hollow interior defined by a top wall, a bottom wall, and sidewalls interconnecting said top and bottom walls;
- a first inflatable bladder 28 disposed within said hollow interior of said box 20, wherein said first inflatable bladder is connected to each said sidewall and wherein said first inflatable bladder is disposed in protecting relation to said bottom wall of said box 20;

- an opening formed in said box (Fig 2);
- said inlet port adapted to be connected to a source of gaseous fluid under pressure;
- said outlet port 30 being in fluid communication with said first inflatable bladder so that said first inflatable bladder is inflated when said source of gaseous fluid under pressure is connected to said inlet port (Col 3:40-46);
- whereby said first inflatable bladder 28 when inflated serves as a cushioning means for said item during shipping (Col 4:38-42 and Fig. 3)

**Kim discloses a valve 24, however it does not specifically disclose:**

- a normally closed valve disposed in sealing engagement with said opening;
- said normally closed valve having an inlet port external to said box;

**However Slepian discloses (shown in figure 2 and Col 6:45-49):**

- a normally closed valve 38 disposed in sealing engagement with an opening;
- said normally closed valve 38 having an inlet port external to a package;

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the valve of Kim be normally closed and the port being located on the external portion of the container as taught by Slepian, since Slepian suggests at Col 6:34-35, 40-49 and Fig. 2 that such a modification would keep the air inside the bladder so that it will not deflate and can be opened to provide an exit path for the air included in the bladder.

**Claim 7:** Kim discloses an inflatable box (Col 3:29-46, Fig. 1 and 3):

- a second inflatable bladder 28 disposed in said hollow interior of said box in cooperative relation to said first inflatable bladder 28 to provide an enhanced cushioning means
- wherein the box 20 has four side walls (see figure above) and closable flaps 34 on the top horizontal and bottom horizontal sections

**Claim 12:** Kim discloses an inflatable box (Col 3:29-46, Fig. 1 and 3):

- first inflatable bladder 28 being disposed in protecting relation to said sidewalls (see figure above) of said box 20

**Claim 13:** Kim discloses an inflatable box (Col 4:19-20, Fig. 1 and 3):

- box 20 is made of a rigid material 32

**Claim 14:** Kim discloses an inflatable box (Col 5:26-28, Fig. 1 and 3):

- box 20 is made of a semi-rigid material

(The cushion 28 is part of the box and is capable of conforming to any shape; it would be readily apparent to one having ordinary skill in the art that the material is considered to be semi-rigid.)

**Claim 15:** Kim discloses an inflatable box (Col 3:66-67, Col 4:5-9 , Fig. 1):

- a hand pump 40 in fluid connection with said first inflatable bladder 28

**Claim 16:** Kim discloses an inflatable box (Col 3:29-46, Fig. 1 and 3):

- first inflatable bladder 28 further comprises a bottom inflatable lumen shaped to cover said bottom wall (see figure above) of said box 20

**Claim 17:** Kim discloses an inflatable box (Col 3:29-46, Fig. 1 and 3):

- first inflatable bladder 28 further comprises an inflatable lumen disposed near said top wall of said box 20 and is adapted to inflate between said box 20/35 and said item 50

**Claim 18:** Kim discloses a first inflatable bladder and a valve 24 but it does not specifically disclose:

- a bleed valve disposed in fluid communication with said first inflatable bladder

**However Slepian discloses (Col 6:45-49):**

- a bleed valve 38/36 disposed in fluid communication with said first inflatable bladder

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a bleed valve to the box of Kim as taught by Slepian, since Slepian suggests at Col 6:45-49 that such a modification would provide an exit path for the air included in the bladder.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 6-7, 12-14 and new claims 15-18 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENINE M. PAGAN whose telephone number is (571)270-3216. The examiner can normally be reached on Monday - Thursday, 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner, Art Unit 3728

/Jenine M Pagan/  
Examiner, Art Unit 3728